

§ 945.125 Disqualification.

The committee from time to time may conduct surveys of handling of potatoes for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a handler or consignee is failing to comply with requirements and regulations applicable to handling of potatoes in special outlets, and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and further certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee but in no event shall it extend beyond the end of the succeeding fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

Subpart—Assessment Rates**§ 945.249 Assessment rate.**

On and after August 1, 2003, an assessment rate of \$0.0045 per hundredweight is established for Idaho-Eastern Oregon potatoes.

[68 FR 59527, Oct. 16, 2003]

Subpart—Handling Regulations**§ 945.341 Handling regulation.**

No person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e) and (f), or (g) of this section.

(a) *Minimum quality requirements.* (1) *Grade—All varieties.* U.S. No. 2 or better grade.

(2) *Size.* (i) *Round red varieties.* 1 $\frac{7}{8}$ inches minimum diameter.

(ii) *All other varieties.* 2 inches minimum diameter, or 4 ounces minimum weight: *Provided,* That at least 40 percent of the potatoes in each lot shall be 5 ounces or heavier.

(iii) *All varieties.* Size B if U.S. No. 1 grade.

(3) *Cleanliness—All varieties.* “Fairly clean.”

(b) *Minimum maturity requirements.* (1) *White Rose and red skin varieties.* Each year from August 1 through December 31, “moderately skinned”; during other periods no maturity requirements.

(2) *All other varieties.* “Slightly skinned.”

(3) *Exceptions.* (i) Subject to compliance with paragraph (b)(4)(iii) of this section, any lot of potatoes not exceeding a total of 50 hundredweight of such variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with paragraph (b)(4)(iii) of this section.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack and marking.* (1) When 50-pound containers (except master containers) of potatoes are marked with a count, size or similar designation, they must meet the count, average count and weight ranges for the count designation listed below.

Size	Range		
	Count	Average count ¹	Weight
Larger than 50	(²)	(³)	(⁴)
50	45–55	48–53	12–19
60	54–66	57–63	10–16
70	63–77	67–74	9–15
80	72–88	76–84	8–13
90	81–99	86–95	7–12
100	90–110	95–105	6–10
110	99–121	105–116	5–9
120	108–132	114–126	4–8
130	117–143	124–137	4–8
140	126–154	133–147	4–8
Smaller than 140	(²)	(³)	4–8

¹ Applicable to lots.

² 10 percent over or under.

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³5 percent over or under.
⁴15 ounces or larger.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(i) Not to exceed 5 percent for undersize; and

(ii) Not to exceed 10 percent for oversize.

(2) Potatoes packed in cartons (except when used as a master container) shall be either:

(i) U.S. No. 1 grade or better, except potatoes of U.S. Extra No. 1 shall be no smaller than 110 size nor larger than 60 size; or

(ii) U.S. No. 2 grade in one-piece 50-pound fiberboard cartons of natural kraft color, provided the cartons are permanently and conspicuously marked as to grade.

(3) Size shall be conspicuously marked on all cartons (except when used as a master container) consistent with §51.1545 of the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566).

(d) *Inspection.* Except when relieved of such requirement pursuant to paragraphs (e) and (f), or (g) of this section:

(1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered and accompanied by a valid inspection certificate, numbered notesheet, or shipping clearance report: *Provided*, That a valid inspection certificate, numbered notesheet, or shipping clearance report is not required to accompany positive lot identified potatoes.

(2) Each lot shipped shall be accompanied by a copy of a valid inspection certificate, a numbered notesheet, shipping clearance report, or the lot must meet PLI requirements established by the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service of the U.S. Department of Agriculture.

(3) Inspection certificates, numbered notesheets or shipping clearance reports for potatoes to be shipped must be issued within four days of such shipment. Otherwise, such potatoes, including lots that are positive lot identified, can only be shipped if a new inspection

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is performed to verify that the potatoes meet the requirements specified in paragraphs (a), (b), and (c) of this section. If the subsequent inspection verifies that the lot meets the requirements of paragraphs (a), (b), and (c) of this section, a new certificate, a new numbered notesheet, or a new shipping clearance report shall be issued and, if positive lot identified, shall reference the original PLI number, and a new PLI number need not be applied to the lot. However, if upon subsequent inspection, the lot does not meet the requirements specified in either paragraphs (a), (b), or (c) of this section, the lot shall be reconditioned in the presence of an authorized representative of the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service prior to the close of the business day. If the lot is reconditioned prior to the close of the business day, a new certificate, a new numbered notesheet, or a new shipping clearance report must be issued, and either a new PLI number must be applied to the lot or the original PLI number must be modified. If the PLI numbered lot is not reconditioned prior to the close of the business day, all PLI numbers must be obliterated. Any inspection certificate, numbered notesheet, or shipping clearance report issued upon a subsequent inspection, including when a lot is reconditioned, must be issued within four days of shipment of the potatoes.

(4) Handlers shall provide the Committee with the destination zip codes of all potatoes handled by permitting the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service to review the bills of lading upon inspection to determine the destination zip codes. The destination zip codes shall be included on the inspection certificates. The destination zip codes and the quantity shall be provided by the handler to the Committee on lots which are positive lot identified, either orally or in writing. Whenever potatoes are diverted to a different destination, the handler shall notify the Committee of the new destination zip code and quantity orally or in writing as soon as practicable.

(e) *Special purpose shipments.* (1) The minimum grade, size, cleanness, maturity, and pack requirements set forth

in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of prepeeled potatoes as defined in paragraph (h) of this section or potatoes for any of the following purposes:

- (i) Charity;
- (ii) Certified seed;
- (iii) Experimentation; and
- (iv) Canning, freezing and "other processing" as hereinafter defined. Also, shipments of potatoes for the purpose specified in this subdivision (iv) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b), (c) and (d) of this section shall be applicable to shipment of potatoes for each of the following purposes:

(i) *Export*: Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling*: Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards*. (1) Each handler making shipments of potatoes for charity, experimentation, or export pursuant to paragraph (e) of this section shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter, furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment,

unless other arrangements are made with the committee office;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment, unless other arrangements are made with the committee office;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(4) Each handler making shipments of certified seed potatoes pursuant to paragraph (e) of this section shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

(g) *Minimum quantity exemption*. Each handler may ship up to, but not to exceed, five hundredweight of potatoes, except yellow fleshed Finnish-type potatoes, any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes. Handlers of potatoes commonly

known as yellow fleshed Finnish potatoes may handle up to 200 hundred-weight of such potatoes any day without regard to the inspection and assessment requirements of this part.

(h) *Definitions.* The terms *U.S. Extra No. 1*, *U.S. No. 1*, *U.S. No. 2*, *Size B*, *fairly clean*, *moderately skinned*, and *slightly skinned* shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 51.1540-51.1566), including the tolerances set forth therein. The term *prepeeling* means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling, or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in §52.2422 of the United States Standards for Peeled Potatoes (7 CFR 52.2421-52.2433). The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms *Idaho Utility grade* and *Oregon Utility grade* shall have the same meaning as when used in the standards for potatoes for the respective State. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

[47 FR 34355, Aug. 9, 1982, as amended at 52 FR 5530, Feb. 25, 1987; 52 FR 41695, Oct. 30, 1987; 53 FR 48634, Dec. 2, 1988; 57 FR 62167, Dec. 30, 1992; 59 FR 46723, Sept. 12, 1994; 60 FR 57905, Nov. 24, 1995; 65 FR 25627, May 3, 2000; 65 FR 48144, Aug. 7, 2000; 67 FR 66531, Nov. 1, 2002]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g. sections .300 through .399) which are in effect for

a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

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